

ASSEMBLY BILL

No. 1113

Introduced by Assembly Member Frazier

February 22, 2013

An act to amend Section 12814.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1113, as introduced, Frazier. Provisional driver's licenses: restrictions.

The Brady-Jared Teen Driver Safety Act of 1997 allows for the issuance of a driver's license to an applicant who is at least 16 years of age but under 18 years of age pursuant to the provisional licensing program. A person licensed under this program is prohibited during the first 12 months after issuance of a license from driving during the hours of 11 p.m. and 5 a.m. or from transporting passengers who are under 20 years of age, subject to specified exceptions. Under existing law, a violation of these provisions is an infraction.

The federal Moving Ahead for Progress in the 21st Century Act authorizes the United States Secretary of Transportation to award incentive grants to states that adopt and implement graduated driver licensing laws in accordance with certain requirements.

This bill would require that the restrictions on a person licensed under the provisional licensing program continue for the duration of the provisional license, and would additionally prohibit the licensee from driving between the hours of 10 p.m. and 5 a.m. or transporting passengers who are under 21 years of age, except as specified. The bill would declare the intent of the Legislature that the provisional licensing program meets the requirements of the federal Moving Ahead for

Progress in the 21st Century Act to ensure that the state is eligible for an incentive grant under that act.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Teenagers have the highest crash rate of any group in the
4 United States and are four times more likely to be involved in a
5 crash than adult drivers.

6 (b) In 2009, there were 476 fatalities in crashes that involved
7 teen drivers and, according to a report done by the National Safety
8 Council, 133 lives and \$910,000,000 could be saved if California
9 implemented the graduated driver licensing requirements specified
10 in the federal Moving Ahead for Progress in the 21st Century Act
11 (Public Law 112-141).

12 (c) It is the intent of the Legislature that the provisional licensing
13 program in California meets the requirements of the federal Moving
14 Ahead for Progress in the 21st Century Act (Public Law 112-141)
15 to ensure that the state is eligible for an incentive grant under that
16 act.

17 SEC. 2. Section 12814.6 of the Vehicle Code is amended to
18 read:

19 12814.6. (a) Except as provided in Section 12814.7, a driver's
20 license issued to a person at least 16 years of age but under 18
21 years of age shall be issued pursuant to the provisional licensing
22 program contained in this section. The program shall consist of
23 all of the following components:

24 (1) Upon application for an original license, the applicant shall
25 be issued an instruction permit pursuant to Section 12509. A person
26 who has in his or her immediate possession a valid permit issued

1 pursuant to Section 12509 may operate a motor vehicle, other than
2 a motorcycle or motorized bicycle, only when the person is either
3 taking the driver training instruction referred to in paragraph (3)
4 or practicing that instruction, provided the person is accompanied
5 by, and is under the immediate supervision of, a California licensed
6 driver 25 years of age or older whose driving privilege is not on
7 probation. The age requirement of this paragraph does not apply
8 if the licensed driver is the parent, spouse, or guardian of the
9 permitholder or is a licensed or certified driving instructor.

10 (2) The person shall hold an instruction permit for not less than
11 six months prior to applying for a provisional driver's license.

12 (3) The person shall have complied with one of the following:

13 (A) Satisfactory completion of approved courses in automobile
14 driver education and driver training maintained pursuant to
15 provisions of the Education Code in any secondary school of
16 California, or equivalent instruction in a secondary school of
17 another state.

18 (B) Satisfactory completion of an integrated driver education
19 and training program that is approved by the department and
20 conducted by a driving instructor licensed under Chapter 1
21 (commencing with Section 11100) of Division 5. The program
22 shall utilize segmented modules, whereby a portion of the
23 educational instruction is provided by, and then reinforced through,
24 specific behind-the-wheel training before moving to the next phase
25 of driver education and training. The program shall contain a
26 minimum of 30 hours of classroom instruction and six hours of
27 behind-the-wheel training.

28 (C) Satisfactory completion of six hours or more of
29 behind-the-wheel instruction by a driving school or an independent
30 driving instructor licensed under Chapter 1 (commencing with
31 Section 11100) of Division 5 and either an accredited course in
32 automobile driver education in any secondary school of California
33 pursuant to provisions of the Education Code or satisfactory
34 completion of equivalent professional instruction acceptable to
35 the department. To be acceptable to the department, the
36 professional instruction shall meet minimum standards to be
37 prescribed by the department, and the standards shall be at least
38 equal to the requirements for driver education and driver training
39 contained in the rules and regulations adopted by the State Board
40 of Education pursuant to the Education Code. A person who has

1 complied with this ~~subdivision~~ *subparagraph* shall not be required
2 by the governing board of a school district to comply with
3 subparagraph (A) in order to graduate from high school.

4 (D) Except as provided under subparagraph (B), a student may
5 not take driver training instruction, unless he or she has
6 successfully completed driver education.

7 (4) The person shall complete 50 hours of supervised driving
8 practice prior to the issuance of a provisional license, which is in
9 addition to any other driver training instruction required by law.
10 Not less than 10 of the required practice hours shall include driving
11 during darkness, as defined in Section 280. Upon application for
12 a provisional license, the person shall submit to the department
13 the certification of a parent, spouse, guardian, or licensed or
14 certified driving instructor that the applicant has completed the
15 required amount of driving practice and is prepared to take the
16 department's driving test. A person without a parent, spouse,
17 guardian, or who is an emancipated minor, may have a licensed
18 driver 25 years of age or older or a licensed or certified driving
19 instructor complete the certification. This requirement does not
20 apply to motorcycle practice.

21 (5) The person shall successfully complete an examination
22 required by the department. Before retaking a test, the person shall
23 wait for not less than one week after failure of the written test and
24 for not less than two weeks after failure of the driving test.

25 (b) Except as provided in Section 12814.7, the provisional
26 driver's license shall be subject to all of the following restrictions:

27 (1) Except as specified in paragraph (2), ~~during the first 12~~
28 ~~months after issuance of a provisional license~~ the licensee may
29 not do any of the following unless accompanied and supervised
30 by a licensed driver who is the licensee's parent or guardian, a
31 licensed driver who is 25 years of age or older, or a licensed or
32 certified driving instructor:

33 (A) Drive between the hours of ~~44~~ 10 p.m. and 5 a.m.

34 (B) Transport passengers who are under ~~20~~ 21 years of age.

35 (2) A licensee may drive between the hours of ~~44~~ 10 p.m. and
36 5 a.m. or transport an immediate family member without being
37 accompanied and supervised by a licensed driver who is the
38 licensee's parent or guardian, a licensed driver who is 25 years of
39 age or older, or a licensed or certified driving instructor, in the
40 following circumstances:

1 (A) Medical necessity of the licensee when reasonable
2 transportation facilities are inadequate and operation of a vehicle
3 by a minor is necessary. The licensee shall keep in his or her
4 possession a signed statement from a physician familiar with the
5 condition, containing a diagnosis and probable date when sufficient
6 recovery will have been made to terminate the necessity.

7 (B) Schooling or school-authorized activities of the licensee
8 when reasonable transportation facilities are inadequate and
9 operation of a vehicle by a minor is necessary. The licensee shall
10 keep in his or her possession a signed statement from the school
11 principal, dean, or school staff member designated by the principal
12 or dean, containing a probable date that the schooling or
13 school-authorized activity will have been completed.

14 (C) Employment necessity of the licensee when reasonable
15 transportation facilities are inadequate and operation of a vehicle
16 by a minor is necessary. The licensee shall keep in his or her
17 possession a signed statement from the employer, verifying
18 employment and containing a probable date that the employment
19 will have been completed.

20 (D) Necessity of the licensee or the licensee's immediate family
21 member when reasonable transportation facilities are inadequate
22 and operation of a vehicle by a minor is necessary to transport the
23 licensee or the licensee's immediate family member. The licensee
24 shall keep in his or her possession a signed statement from a parent
25 or legal guardian verifying the reason and containing a probable
26 date that the necessity will have ceased.

27 (E) The licensee is an emancipated minor.

28 (c) A law enforcement officer shall not stop a vehicle for the
29 sole purpose of determining whether the driver is in violation of
30 the restrictions imposed under subdivision (b).

31 (d) A law enforcement officer shall not stop a vehicle for the
32 sole purpose of determining whether a driver who is subject to the
33 license restrictions in subdivision (b) is in violation of Article 2.5
34 (commencing with Section 118947) of Chapter 4 of Part 15 of
35 Division 104 of the Health and Safety Code.

36 (e) (1) Upon a finding that any licensee has violated paragraph
37 (1) of subdivision (b), the court shall impose one of the following:

38 (A) Not less than eight hours nor more than 16 hours of
39 community service for a first offense and not less than 16 hours

1 nor more than 24 hours of community service for a second or
2 subsequent offense.

3 (B) A fine of not more than thirty-five dollars (\$35) for a first
4 offense and a fine of not more than fifty dollars (\$50) for a second
5 or subsequent offense.

6 (2) If the court orders community service, the court shall retain
7 jurisdiction until the hours of community service have been
8 completed.

9 (3) If the hours of community service have not been completed
10 within 90 days, the court shall impose a fine of not more than
11 thirty-five dollars (\$35) for a first offense and not more than fifty
12 dollars (\$50) for a second or subsequent offense.

13 (f) A conviction of paragraph (1) of subdivision (b), when
14 reported to the department, may not be disclosed as otherwise
15 specified in Section 1808 or constitute a violation point count value
16 pursuant to Section 12810.

17 (g) Any term of restriction or suspension of the driving privilege
18 imposed on a person pursuant to this subdivision shall remain in
19 effect until the end of the term even though the person becomes
20 18 years of age before the term ends.

21 (1) The driving privilege shall be suspended when the record
22 of the person shows one or more notifications issued pursuant to
23 Section 40509 or 40509.5. The suspension shall continue until any
24 notification issued pursuant to Section 40509 or 40509.5 has been
25 cleared.

26 (2) A 30-day restriction shall be imposed when a driver's record
27 shows a violation point count of two or more points in 12 months,
28 as determined in accordance with Section 12810. The restriction
29 shall require the licensee to be accompanied by a licensed parent,
30 spouse, guardian, or other licensed driver 25 years of age or older,
31 except when operating a class M vehicle, or so licensed, with no
32 passengers aboard.

33 (3) A six-month suspension of the driving privilege and a
34 one-year term of probation shall be imposed whenever a licensee's
35 record shows a violation point count of three or more points in 12
36 months, as determined in accordance with Section 12810. The
37 terms and conditions of probation shall include, but not be limited
38 to, both of the following:

39 (A) The person shall violate no law which, if resulting in
40 conviction, is reportable to the department under Section 1803.

1 (B) The person shall remain free from accident responsibility.

2 (h) Whenever action by the department under subdivision (g)
3 arises as a result of a motor vehicle accident, the person may, in
4 writing and within 10 days, demand a hearing to present evidence
5 that he or she was not responsible for the accident upon which the
6 action is based. Whenever action by the department is based upon
7 a conviction reportable to the department under Section 1803, the
8 person has no right to a hearing pursuant to Article 3 (commencing
9 with Section 14100) of Chapter 3.

10 (i) The department shall require a person whose driving privilege
11 is suspended or revoked pursuant to subdivision (g) to submit proof
12 of financial responsibility as defined in Section 16430. The proof
13 of financial responsibility shall be filed on or before the date of
14 reinstatement following the suspension or revocation. The proof
15 of financial responsibility shall be maintained with the department
16 for three years following the date of reinstatement.

17 (j) (1) Notwithstanding any other provision of this code, the
18 department may issue a distinctive driver's license, that displays
19 a distinctive color or a distinctively colored stripe or other
20 distinguishing characteristic, to persons at least 16 years of age
21 and older but under 18 years of age, and to persons 18 years of
22 age and older but under 21 years of age, so that the distinctive
23 license feature is immediately recognizable. The features shall
24 clearly differentiate between driver's licenses issued to persons at
25 least 16 years of age or older but under 18 years of age and to
26 persons 18 years of age or older but under 21 years of age.

27 (2) If changes in the format or appearance of driver's licenses
28 are adopted pursuant to this subdivision, those changes may be
29 implemented under any new contract for the production of driver's
30 licenses entered into after the adoption of those changes.

31 (k) The department shall include, on the face of the provisional
32 driver's license, the original issuance date of the provisional
33 driver's license in addition to any other issuance date.

34 (l) This section shall be known and may be cited as the
35 Brady-Jared Teen Driver Safety Act of 1997.

36 SEC. 3. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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